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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 DANIEL J. THOMAS,

12 Petitioner,

13 vs.

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15 LARRY SMALL, Warden,

16 Respondent.

CASE NO. 09-CV-109 JLS (BLM)

**ORDER: (1) ADOPTING REPORT
AND RECOMMENDATION, (2)
DISMISSING THE PETITION,
AND (3) DENYING
PETITIONER'S REQUEST FOR
AN EVIDENTIARY HEARING**

(Doc. No. 17)

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18 Petitioner Daniel J. Thomas brings the present petition for a writ of habeas corpus, alleging
19 Respondent's disciplinary proceedings violated his due process rights. (Doc. No. 1.) Presently before
20 the Court is the petition, Respondent's motion to dismiss, (Doc. No. 17), Petitioner's opposition, (Doc.
21 No. 21), and a report and recommendation (R&R) from Magistrate Judge Barbara L. Major advising
22 this Court to grant Respondent's motion to dismiss, deny the petition, and deny Petitioner's request
23 for an evidentiary hearing. (Doc. No. 22.)

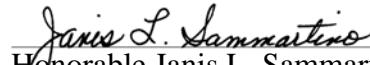
24 Rule 72(b) of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1) set forth the
25 duties of a district court in connection with a magistrate judge's report and recommendation. "The
26 district court must make a *de novo* determination of those portions of the report . . . to which
27 objection is made," and "may accept, reject, or modify, in whole or in part, the findings or
28 recommendations made by the magistrate." 28 U.S.C. 636(b)(1)(c); *see also United States v.*

1 *Remsing*, 874 F.2d 614, 617 (9th Cir. 1989); *United States v. Raddatz*, 447 U.S. 667, 676 (1980).
2 However, in the absence of timely objection, the Court need “only satisfy itself that there is no
3 clear error on the face of the record.” Fed. R. Civ. P. 72, Advisory Committee Notes (1983)
4 (citing *Campbell v. U.S. Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974)).

5 In this case, Petitioner has failed to timely file objections to Judge Major’s R&R. Having
6 reviewed the R&R, the Court finds that it is thorough, well reasoned, and contains no clear error.
7 Therefore, the Court adopts the R&R in full. The Court hereby: (1) **ADOPTS** Magistrate Judge
8 Major’s Report and Recommendation, (2) **GRANTS** Respondent’s motion to dismiss the petition
9 for habeas corpus and denying the petition, and (3) denying Petitioner’s request for an evidentiary
10 hearing. . The Clerk shall close the file.

11 IT IS SO ORDERED.

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13 DATED: February 8, 2010

14 
15 Honorable Janis L. Sammartino
16 United States District Judge
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